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## DEPARTMENT OF LABOR AND EMPLOYMENT DIVISION OF EMPLOYMENT AND TRAINING

WORKFORCE DEVELOPMENT PROGRAMS  
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Category: Workforce Investment Act
Subject#: WIA Waiver: Formula Fund Set-Aside for "Local Activities"
Source: Federal/State
Revise/Replace:
Contact: Workforce Development Programs Director
Distribution: Managers, Workforce Development Staff, Workforce Region Directors, Fiscal
Colorado One-Stop System Policy Guidance Letter#:
Date:

### I. REFERENCE(S):

Workforce Investment Act (WIA) of 1998, Sections 129(b), 134, & 189(i)(4)(B); and WIA Final Rules – 20 CFR 661.400, 661.420(c) and (e), and 663.145; TEGL 14-00, change 1, dated Nov. 19, 2001.

### II. PURPOSE:

To establish policy and provide guidelines for the implementation of the waiver granted by the US Department of Labor (USDOL), which allows set-aside of WIA formula funds for discretionary activities.

### III. BACKGROUND:

In December 2004, the Colorado Department of Labor and Employment (CDLE) applied for a waiver of the WIA requirements governing Adult, Dislocated Worker, and Youth formula funds allocated to local workforce investment boards. The purpose of the waiver request was to gain additional flexibility for local workforce boards to design programs for employers, or for underserved populations (such as employed and incumbent workers, disabled youth, and high income dislocated workers), that might otherwise have negatively impacted WIA performance outcomes.

In April 2005, USDOL granted the waiver request, stating that:

".... the State of Colorado is granted a waiver of the language that limits the authority to provide the activities identified in WIA Sections 129(b) and 134 to the state. The waiver is approved through June 30, 2007, with an effective date of January 1, 2005. Under the waiver, local areas will be permitted to request use of up to 10 percent of local area formula allocation funds for adults, dislocated workers and youth to provide statewide employment and training activities identified at WIA Sections 129(b) and 134. The waiver is granted on the condition that the state will continue to meet its responsibilities related to statewide employment and training activities."

For purposes of clarity, the local set-aside funds that local workforce boards may

utilize for “statewide activities” were called “**Local Activity Funds**” in the waiver request. When CDLE submitted the waiver request, we anticipated the following sequence of events to occur for regions to take advantage of these funds:

- Boards would identify local needs for additional flexibility in the use of formula funds based on changing economic conditions and employer needs
- Boards would submit a proposal (much like a discretionary grant proposal) for a plan modification which identifies the funding stream and amount and percent of funds to be set aside; describes the services and activities to be delivered; defines the performance outcomes; and sets expenditure and performance goals independent of the WIA formula grants.
- CDLE would evaluate and approve the Board proposal in conjunction with a review of current performance and expenditure levels.

CDLE’s waiver request also anticipated that these Local Activity Funds would not be subject to the WIA or Common Performance Measures. This was based on TEGL 14-00, Change 1, which states that when statewide funds (or, in this case, local funds set aside for statewide activities) are utilized for specialized customer services, or for pilot or demonstration projects designed to serve targeted customer populations, the outcomes of such activities are excluded from the negotiated performance measurements.

#### **IV: POLICY/ACTION:**

##### **A. Determining the Set-Aside**

Local boards may choose whether to apply for implementation of the Local Activity Funds waiver for up to 10% of any one or more of the following formula-allocated funding streams:

- FY05, PY05, and/or FY06 WIA Adult program funds
  - FY05, PY05, and/or FY06 WIA NER program funds
  - FY05, PY05, and/or FY06 WIA Dislocated Worker (DW) program funds
  - FY05, PY05, and/or FY06 WIA Enhanced DW program funds
  - PY04 and/or PY05 (in-school and/or out-of-school) WIA Youth program funds
1. The 10% maximum set-aside for Local Activities is to be calculated on the total allocation received minus the amount set aside for administration, i.e. on the funds remaining for program expenditures.
  2. Regions must operate under the current 10% limit on administrative costs. No separate amount may be set aside for administration of the Local Activities projects.
  3. Should a region also choose to transfer funds (or if the region has previously transferred funds) between the Adult and Dislocated Worker programs, the 10% maximum set aside for Local Activities may be calculated on the original budget for program expenditures **or** on the program funds remaining after a transfer has occurred.
  4. If a transfer out of funds occurs at any time subsequent to the set-aside of funds for Local Activities, and this transfer reduces the amount of program funds available, the amount of Local Activity Funds must also be adjusted downward to comply with the 10% limit.

5. If a local board wishes to apply for set aside of FY05 (Adult, NER, DW, Enhanced DW funds) or PY04 (Youth funds), **the effective date for use of these funds can be no sooner than July 1, 2005.** This is due to the fact that Expenditure Authorization modifications cannot be backdated, and there is insufficient time for State review of applications prior to the start of the new program year.
6. **Customers served with the Local Activity Funds must be newly enrolled July 1, 2005, or later.** JobLink program codes for enrollment have been developed as follows:
  - AS - Adult Set Aside (applies to Adult and NER funds)
  - DS - Dislocated Worker Set Aside (applies to DW, Enhanced DW, and NER funds transferred to DW)
  - YS - Younger Youth Set Aside
  - OS - Older Youth Set Aside

## **B. Developing and Submitting the Local Activity Funds Request(s)**

1. **Allowable Activities:** Local workforce boards may use Local Activity Funds for specialized services, pilot projects, or demonstration projects involving one or more of the following:
  - Services to targeted populations – such as offenders, the disabled, older workers, displaced homemakers, high income job seekers, and/or employed workers
  - Incumbent worker training programs
  - Services to benefit employers
  - May include system capacity building that benefits the targeted groups or employers
  - May include an emphasis on non-traditional training
2. **Use of Expenditure Authorizations:** Regions may use the Expenditure Authorization (EA) document to submit their Local Activity Funds request(s), but will be required to provide the following items and information:
  - a. EA Signature Page signed by the Workforce Center Director and WIB Chair (Additional signatures, if needed, should be obtained after CDLE has approved the Local Activity Funds request(s))
  - b. Budget Information and Narrative
    - Modified BIST chart with lines added to show the proposed set-aside funding
    - A line item budget for the proposed set-aside program expenditures along with an expanded budget narrative explaining how the funds will be used (include training, supportive services, staff, etc.)
  - c. Scope of Work/Rationale for Modification – see section 3 below for the project narrative guidelines
  - d. Goals, Objectives, and Outcomes – identify and describe the specific performance outcomes that are proposed in place of the WIA performance measures or common measures
  - e. Planned Participation and Termination Summary form, which includes

the proposed numerical performance outcomes for the Local Activity funds project

- f. Projected Quarterly Expenditures form for the Local Activity Funds project

**3. Scope of Work/Rationale for Modification:** This narrative portion of the EA should address the following items:

- a. A statement of the purpose of the project
- b. An explanation of how employers or targeted groups were identified including data and criteria utilized in the selection process
- c. Types of skills sets needed and training anticipated for participants or incumbent workers that meets or is developed based on industry skill standards or certifications
- d. Types of employment and wage level opportunities available after training
- e. Participation of employers, economic development, and other partners in the planning and implementation of the project
- f. A complete description of the project or activities, identifying the specialized services or new initiatives that represent a pilot or demonstration project
- g. Identification of time frames for implementation
- h. Identification of what role each partner will play in implementing the project and whether any services will be subcontracted

**4. EA Submission Process:** The Local Activity Funds EA(s) should be submitted electronically to Chrystalynn and your Workforce System Specialist - WSS (formerly State Field Representative). The signature sheet should be sent via fax or mail to your Workforce System Specialist. CDLE will review the proposed projects and provide timely feedback regarding changes needed to achieve final approval. Once approval is obtained, the region should follow standard procedures for submission of the EA.

**V. IMPLEMENTATION DATE:**

Immediately upon receipt of this Program Guidance Letter.

**VI. INQUIRIES:**

Please direct all inquiries to your Workforce System Specialist (formerly State Field Representative) at Workforce Development Programs.

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Thomas J. Looft, Director  
Workforce Development Programs